

# STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF DRINKING WATER

## 2008 DWSRF CAPITALIZATION GRANT APPLICATION and INTENDED USE PLAN



**STATE OF UTAH  
DIVISION OF DRINKING WATER  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**2008 DWSRF INTENDED USE PLAN**

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## **Section A: Drinking Water State Revolving Fund (DWSRF)**

### **A-1 Plan Introduction:**

The national Drinking Water State Revolving Fund (DWSRF) program established by the Safe Drinking Water Act (SDWA) Amendments of 1996, authorizes the U.S. Environmental Protection Agency (EPA) to award capitalization grants to states, which in turn may provide low-cost loans and other types of assistance to eligible public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements. States are also authorized to set-aside a portion of their capitalization grants to fund a range of activities including administration, technical assistance, source water protection, capacity development, and operator certification.

The Utah Legislature enacted Utah Code Annotated (UCA) 19-4-101 et seq. establishing the Utah Safe Drinking Water Board (Board). UCA 19-4-104 empowers the Board with rule making authority to meet the requirements of federal law governing drinking water. UCA 19-4-105 establishes the Division of Drinking Water (DDW) which is tasked with the responsibility to administer UCA 19-4-101 et seq. The Board has promulgated rules for making loans incorporating the requirements of the Federal Safe Drinking Water Act at Utah Administrative Code R309.705. Additionally, the Board is authorized by UCA 19-4-104(1)(a)(v) and 19-4-104(2) to promulgate rules for certification of operations and governing capacity development in compliance with Section 1419 and 1420 of the Federal Safe Drinking Water Act.

The Board, an eleven-member board appointed by the Governor, develops policies and procedures for program implementation and authorizes loans under the DWSRF. The Utah Department of Environmental Quality (DEQ) through DDW directly administers the DWSRF program. The DDW's primary DWSRF activities include administering loans and managing and coordinating the fund.

DDW receives assistance and support from the DEQ's Office of Support Services, the State Division of Finance, the State Attorney General's Office and the State Treasurer's Office. The salaries and benefits of the employees, as well as indirect costs based on direct salary costs, are charged to the DWSRF program. Employees charging time to the DWSRF program are covered by the State of Utah personnel benefits plan. The DWSRF program is charged a loan administration fee by the Division of Finance.

The DWSRF program requires the states to deposit to the loan fund an amount equal to at least 20 percent of the capitalization grant. Loan repayments made by assistance recipients return to the loan fund and provide a continuing source of financing. The first year of funding by USEPA was federal fiscal year 1997. The following table summarizes awards received by DDW, the allocation between loan and set-aside funds and the required state 20% match.

| <p style="text-align: center;">Table 1<br/>Summary of DWSRF Grants<br/>June 30 2007</p> |                    |               |      |                  |       |                 |       |                       |  |
|---|--------------------|---------------|------|------------------|-------|-----------------|-------|-----------------------|--|
| Federal<br>Fiscal<br>Year   | Award<br>Date      | Total         |      | Award Allocation |       |                 |       | State<br>20%<br>Match |  |
|   |                    | Amount        | %    | Loan Fund        |       | Set-Aside Funds |       |                       |  |
|   |                    |               |      | Amount           | %     | Amount          | %     |                       |  |
| 1997  | February 9, 1998   | \$ 12,558,800 | 100% | \$ 9,755,575     | 77.7% | \$ 2,803,225    | 22.3% | \$ 2,511,760          |  |
| 1998  | September 20, 1999 | 7,121,300     | 100% | 5,633,563        | 79.1% | 1,487,737       | 20.9% | 1,424,260             |  |
| 1999  | May 1, 2000        | 7,463,800     | 100% | 6,019,720        | 80.7% | 1,444,080       | 19.3% | 1,492,760             |  |
| 2000  | August 21, 2000    | 7,732,000     | 100% | 6,515,880        | 84.3% | 1,216,120       | 15.7% | 1,551,400             |  |
| 2001  | September 7, 2001  | 7,789,100     | 100% | 6,542,844        | 84.0% | 1,246,256       | 16.0% | 1,557,820             |  |
| 2002  | July 20, 2002      | 8,052,500     | 100% | 6,384,100        | 79.3% | 1,668,400       | 20.7% | 1,610,500             |  |
| 2003  | August 11, 2003    | 8,004,100     | 100% | 6,473,444        | 80.9% | 1,530,656       | 19.1% | 1,600,820             |  |
| 2004  | July 6, 2004       | 8,303,100     | 100% | 6,724,604        | 81.0% | 1,578,496       | 19.0% | 1,660,620             |  |
| 2005  | June 16, 2005      | 8,285,500     | 100% | 6,709,820        | 81.0% | 1,575,680       | 19.0% | 1,657,100             |  |
| 2006  | June 29, 2006      | 8,228,900     | 100% | 6,583,120        | 80.0% | 1,645,780       | 20.0% | 1,645,780             |  |
| 2007  | June 27, 2007      | 8,229,400     | 100% | 6,562,696        | 79.7% | 1,666,704       | 20.3% | 1,645,880             |  |
|   | Total              | \$ 91,768,500 | 100% | \$ 73,905,366    | 80.5% | \$ 17,863,134   | 19.5% | \$ 18,358,700         |  |

The allotment between states is based on state needs surveys. The amount awarded to the State of Utah in each of the fund years was one percent, the minimum allocation. Utah has requested and been awarded its annual allocation through federal fiscal year 2007.

The State Auditor, in compliance with the provisions of the Single Audit Act, audits the DWSRF accounts. DWSRF accounts are also subject to review and audit by USEPA, the Office of the Inspector General. DWSRF Funds are included in Utah's Comprehensive Annual Financial Report (CAFR), which uses the modified accrual bases of accounting. Because funds are combined the DWSRF assets, liabilities, and net assets are not identifiable in Utah's CAFR.

The state is required to submit an annual Intended Use Plan (IUP) to EPA as long as the Fund or set-aside accounts remain in operation.

DDW under the direction of the Board administers the loan and set-aside programs.

DWSRF program and procedures that are not expected to change annually are described in the Operating Agreement.

## A-2 Loan Program:

The loan program funds low-cost loans and other types of assistance to publicly owned and privately owned community water systems and non-profit non-transient water systems to finance the costs of infrastructure projects. States are responsible for developing a priority system that identifies how projects will be ranked for funding and a list of projects, in priority order, that are eligible for funding. A description of the criteria and the method used for distribution of loan funds is outlined in Utah Administrative Code R309-705

### Loans Program Eligibility Requirements

1. Repayment must begin no later than one year after completion of the project.
2. Loan repayment must be complete no later than 20 years after the completion of the project. A disadvantaged community loan may have up to 30 years as long as the period of the loan does not exceed the expected design life of the project.
3. A minimum of 15% of all dollars credited to the loan fund must provide loans to small systems, those that serve fewer than 10,000 persons.
4. Up to 30% of federal grants can be used for principal forgiveness for communities meeting the State's "Disadvantage" criteria. The Board has defined disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns or where the established annual cost of drinking water service to the average residential user exceeds 1.75% of the median adjusted gross income.

### Interest and Fees

1. Federal rules section 1452 allows the state to assess interest and/or fees. Fees are calculated and paid in the same manner as interest. Fees have fewer restrictions than interest. The Board has authorized by Rule the establishment of a fund (or account) into which the proceeds of annual fees be placed.
2. Interest payments are deposited to the same loan fund as principal payments and have the same restrictions.
3. Hardship fees are deposited to a separate fund authorized for providing grants to water systems through the State SRF loan program.
4. The Board established a Rule for the collection of a Technical Assistance fee. These funds will be used to finance technical assistance for eligible water systems. This fee is part of the "effective rate" calculated using Table 2, R309-705-6. Utah Rule R309-705-4 defines an SRF Technical Assistance Fund which means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems. These fees are deposited into the hardship fee fund and will be tracked separately.

The Technical Assistance Fund will provide low interest loans for technical assistance, and any other eligible purpose as defined by Section 1452 of the SDWA Amendments of 1996, to water systems that are eligible for Federal SRF loans.

Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged. The proceeds of the fund will be used as defined above or as modified by the Board.

5. Origination Fee: Authority was amended by the Utah State Legislature to establish an origination fee to be charged to a new loan to fund the administration of the Drinking Water SRF programs with HB99. It was reviewed by the Board on May 11, 2007. The following guidelines were decided:

- a. The Board set a fee amount of 1% of the loan amount. The amount of the fee will be reviewed annually and may change the Board is responsible to determine the needs of the program.
- b. The origination fee amount is assessed to the loan recipient as a percentage of the Principal Balance of the loan. It is generally from the loan proceeds at closing as a one-time fee, but the loan recipient may choose to pay separately.
- c. All proceeds will be deposited into the "DW Origination Fee Fund" as created in Section 73-10c-5.
- d. Since fees will be deposited into an account outside of the Fund, they will only be used for program administration or other purposes for which capitalization grants can be awarded under section 1452.
- e. Fees began being assessed July 11, 2007.

#### State fund Drinking Water Loan Program:

The Division of Drinking Water also operates a State funded Drinking Water Assistance Program. The state program provides Utah the flexibility to put together loan packages without the restrictions that accompany the DWSRF program. The federal DWSRF required State 20% match is generated from the state loan program.

#### A-3 Set-Asides:

In addition to loan assistance to eligible public water systems, the DWSRF program also emphasizes the prevention of drinking water contamination by allowing states to reserve a portion of their grant to fund activities that encourage enhanced water system management and source water protection. The funded activities are referred to as set-aside funds. Set-aside activities include:

- 1) Up to four percent of the allotment to administer the DWSRF and provide technical assistance to public water systems;
- 2) Up to ten percent of its allotment for state program management activities, including administration of the state public water supervision system program, administration of the source water protection program, development and implementation of the capacity development and operator certification programs. This set-aside requires a dollar-for-dollar match. The match is provided from state general funds.
- 3) Up to two percent of its allotment to provide technical assistance to small public water systems;
- 4) Up to 15 percent of its capitalization grants to assist in the development and implementation of local drinking water protection initiatives, including capacity development, wellhead protection and other state programs.

## **SECTION B - INTENDED USE PLAN:**

### **B-1 Summary, Financial Status and Goals:**

The State has agreed to prepare an Intended Use Plan (IUP) as long as the loan fund and/or set-aside funds remain in operation describing how the state will use all funds available to the capitalization grant, including funds that will be allocated to the set-asides. Specifically, the IUP describes how we plan to use available funds. Funds are received from the federal capitalization grants, the state match, loan repayments including interest and fee payments, and investment earnings.

The state is applying for the 2008 DWSRF appropriation in the amount of \$8,146,000. \$6,516,800 will be added to the loan fund and \$1,629,200 to the set-aside program. The federally mandated 20% state match of \$1,629,200 will be funded from the Drinking Water State loan program.

#### **The Intended Use Plan (IUP) includes:**

- 1) Specifics on how the Board proposes to use the FFY 2008 DWSRF appropriation;
- 2) A description of the goals of the DWSRF program;
- 3) A list of projects eligible to receive DWSRF funding, which identifies those serving less than 10,000 people;
- 4) Cost estimates for listed projects;
- 5) An estimate of funds anticipated to be available for financial assistance;
- 6) Criteria for selecting projects to receive financial assistance;
- 7) Criteria for determining which communities qualify for hardship status;
- 8) The project scoring and ranking system;
- 9) Projects authorized for funding and those anticipated to be closed in FFY2008.

#### **Short and Long-Term DWSRF Goals:**

The DWSRF program will help ensure Utah's drinking water supplies remain safe and affordable, and drinking water systems are properly operated and maintained. The objectives of the DWSRF program include ensuring the public health, achieving compliance with SDWA, and assisting systems to provide affordable drinking water.

##### **Short Goals:**

###### **Loan Program:**

- To assist prospective borrowers during facility planning and preparation of their project funding applications, make funding recommendation to the Board, and assist during project construction.
- Improve the State Revolving Loan Fund Program to include: Allow for funding of automated meters, require all applicants to complete a vulnerability assessment and emergency response plan, make adjustments to the interest rate point system, make applications available online and consider ways to make the state and federal programs uniform.

Set-Aside:

- 1) Complete, maintain and enhance the SDWIS/SARA database system.
- 2) Continue to enhance the PWSS program.
- 3) Continue to expand the Operator Certification program
- 4) Improve the reporting of analytical data to DDW by enabling the electronic transfer of laboratory analytical data.
- 5) Establish logical grouping of water systems and rotation of surveyors
- 6) Implement a water system recognition program.
- 7) Conduct a customer satisfaction survey.
- 8) Make weekly and monthly reports available to the Board, LHD, AWWA, RWAU with appropriate links to webpage.
- 9) Evaluate EPA's Groundwater Rule and formulate an implementation plan.
- 10) Continue funding for DWSRF administrative needs.
- 11) Implement an electronic management system in conjunction with the Department.
- 12) Develop a tracking methodology for rule exceptions in performing sanitary surveys.
- 13) Direct the development of a team to work with institutional water system owners (UDOT, LDS, BSA, etc.) to enhance technical assistance and compliance.
- 14) Develop guidance relating to Source Protection and capacity issues.
- 15) Coordinate activities relating to protection of sensitive SPP areas.

Long-Term Goals for the Loan Funds and the Set-Aside Funds

- 1) To provide a permanent source of funding which can be used in combination with financing from a community's own resources and other funding sources to assist in financing needed drinking water projects. The Federal SRF funds, the State 20% match, loan repayments, interest payments and earnings on the invested cash balance provide funding.
- 2) To protect public health
- 3) To help public water suppliers achieve and maintain compliance with Federal and State drinking water standards.
- 4) To enhance long-term water system viability
- 5) To assist public water suppliers to improve drinking water quality and dependability by providing SRF loans to applicants in greatest need.
- 6) Educate and support water suppliers with their water protection (counter-terrorism) efforts. Rural Water Association of Utah (RWAU) will augment the State's efforts to provide widespread training and provide as much onsite, one-on-one technical assistance as possible to water systems
- 7) Establish state rules to require all future public water systems to be public entities of the State Of Utah



**Transfer and Cross-Collateralization of Funds between the DWSRF and CWSRF:**

Section 302 of the SDWA authorizes the transfer up to 33 percent of the amount of a fiscal year's DWSRF program capitalization grant to the CWSRF program or an equivalent amount from the CWSRF program to the DWSRF program. There has been no transfer of funds and no transfers are anticipated.

**Withholding of Funds:**

EPA has the ability to withhold funds under certain provisions, but the DWB/DDW has complied with the following:

1. The State has authority to ensure all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. Utah Code Annotated 19-4-104 empowers the Drinking Water with rule making authority to meet the requirements of Federal law governing drinking water.
2. The State has developed and is implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.
3. The State has adopted and is implementing a program for certifying operators of community and nontransient, noncommunity public water systems.

EPA has approved the State's operator certification program.

**Public Review of the IUP:**

The IUP was published on the Drinking Water web site, [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov). Notice of the posting and request for public comment was included on the Board February meeting agenda, which is mailed to approximately 300 interested individuals and agencies asking for review and comments. In addition, copies were mailed to the Governor's Office of Planning and Budget, the Utah League of Cities and Towns, and the Rural Water Association of Utah. Comment may be made in writing addressed to the Board at 150 North 1950 West, PO Box 144830, Salt Lake City, Utah 84114-4830 or in person at a regular scheduled Board meeting. The next regularly scheduled Board meeting is May 9, 2008. No comments are anticipated to be received.

**Financial status:**

Initial capitalization for the Utah DWSRF program was provided from the 1997 Federal Capitalization Grant and state matching dollars. For the ten years, 1997 through 2007, DWSRF capitalization grants totaled \$91,768,500. \$73,905,366 was the total loan program portion and \$17,863,134 was used in the set-aside programs. The State 20% match for the ten-year period of \$18,358,700 was added to the loan program. Through February 29, 2008 the Board has authorized fifty-six projects totaling \$104,049,246. Forty-three projects totaling \$82,208,246 have been closed (committed) and nine projects totaling \$21,771,000 have been authorized by the Board but have not been closed (not committed), four planning loans have signed loan agreements but funds have not been disbursed totaling \$70,000. Revenue, disbursements and balances are shown in the financial statements thru 6/30/2007.

| Table 2<br>Capitalization Grant and State Match Requests<br>FFY 2008 |              |            |
|--|--------------|------------|
|  | Amount       | Percentage |
| Loan Fund  | \$ 6,516,800 | 100.00%    |
| Set-asides   |              |            |
| Administration   | 325,840      | 4.00%      |
| State Program Management : (requires dollar for dollar match)        |              |            |
| Program Augmentation   | 651,680      | 8.00%      |
| Capacity Development   | 0            | 0.00%      |
| Source Protection  | 101,825      | 1.25%      |
| Operator Certification   | 61,095       | 0.75%      |
| Total State Program Management                                       | 814,600      | 10.00%     |
| Small System technical Assistance                                    | 162,920      | 2.00%      |
| Local Assistance (Up to 15%)   |              |            |
| WellHead Protection  | 20,350       |            |
| Capacity Development/Tech Assistance                                 | 305,490      |            |
| Total Local Assistance and Other State Programs                      | 325,840      | 4.00%      |
| Set-aside total  | 1,629,200    | 20.00%     |
| Capitalization Grant Totals  | 8,146,000    | 100.00%    |
| State 20% Match  | \$1,645,880  | 20.00%     |
| State Program Management 1 for 1 match from general funds            | \$814,600    | 10.00%     |

We are applying for \$8,146,000 the amount allocated to the State of Utah for FFY 2008. \$6,516,800 will be provided to the loan fund and \$1,629,200 to set-asides. The state 20% match of \$1,629,200 will be added to the loan fund.

| Table 3                                 |              |         |
|---|--------------|---------|
| Division of Drinking Water              |              |         |
| Funding Sources and Funding Commitments |              |         |
| June 30, 2007                           |              |         |
|   | TOTAL        | PERCENT |
| Capitalization:                         |              |         |
| USEPA Capitalization grants             | \$91,768,500 | 84.6%   |
| State match                             | 16,712,820   | 15.4%   |
| Total capitalization                    | 108,481,320  | 100.0%  |
| Less set-aside allocation               | (17,863,134) | -16.5%  |
| Additions to the loan fund              | 90,618,186   | 83.5%   |
| Funded projects (closed loans):         |              |         |
| Standard loans - population over 10,000 |              | 0.0%    |
| Standard                                | 24,470,000   | 22.6%   |
| Disadvantaged communities               | 11,345,000   | 10.5%   |
| Small Systems - population less 10,000: |              |         |
| Standard                                | 19,705,000   | 18.2%   |
| Disadvantaged communities               | 23,078,246   | 21.3%   |
| Total closed loans                      | 78,598,246   | 72.5%   |
| Projects authorized but not yet closed  | 18,380,000   | 16.9%   |
| Total authorized projects               | 96,978,246   | 89.4%   |
| Available                               | (6,360,060)  | -5.9%   |
| Other available funds:                  |              |         |
| Investment earnings                     | 916,171      |         |
| Principal and interest payments         | 10,865,138   |         |
| Hardship fees                           | 2,640,640    |         |
| Total                                   | 8,061,889    |         |

## B-2 Loan program:

Rule R309-705 establishes criteria for financial assistance to public drinking water systems in accordance with the Federal SDWA. A copy of Rule R309-705 is attached. The 2008 DWSRF capitalization grant along with carry forward funds, repayments, interest and fee payments, and investment earnings provides the funds the Division has available to help public water systems finance needed drinking water projects.

A short list of anticipated projects requiring funding is listed below in Table 4 (at the top of the priority list). The complete priority list is included as an attachment.

The first section lists projects authorized by the Board but the loan has not been closed (EPA does not consider the loan as committed until the loan documents are signed) and projects staff is working on to present to the Board for their consideration.

As conditions change, the Board may reassess project readiness, and choose to delay funding to those the Board considers “not ready to precede” rule R309-705-6.

| Priority Points | Table 4<br>Federal SRF Loans<br>Project Priority List - (partial list)<br>February 2008 |            |        |   |               |              |              |
|-----------------|---|------------|--------|---|---------------|--------------|--------------|
|                 | System Name   | County     | Pop.   | Project Title                             | Project Total | Request      | Funds Auth   |
| 115.0           | Mountain Regional SSD   | Summit     | 6,549  | Dist. System, Booster Station, Fire Hyd.  | \$3,026,263   | \$3,026,263  |              |
| 54.3            | Twin Creeks SSD   | Wasatch    | 54     | Source Redev, Treat, Stg, Distr           | \$700,000     | \$450,000    | \$450,000    |
| 39.6            | Erda Acres Water Co   | Tooele     | 265    | Update lines, well, chlorination facility | \$2,400,000   | \$2,100,000  | \$2,100,000  |
| 36.3            | St. George  | Washington | 50,000 | Arsenic Treatment of Gunlock Wells        | \$21,550,000  | \$10,000,000 | \$6,000,000  |
| 33.3            | Tooele Co SSD   | Tooele     |        | Source, Trans, Treatment, & Storage       | \$500,000     | \$365,000    |              |
| 28.8            | Logan City  | Cache      | 44,970 | DeWitt Sprgs Transmission Line            | \$9,200,000   | \$9,200,000  | \$3,345,000  |
| 23.1            | Whispering Pines  | Sanpete    | 233    | Pump replacement, well equipment          | \$220,000     | \$220,000    |              |
| 22.5            | Alta Town   | Salt Lake  | 367    | Treatment (Antimony)                      | \$531,300.00  | \$425,000    |              |
| 19.6            | Midvale City  | Salt Lake  | 12,800 | 4MG tank, rehabilitate well               | \$9,852,500   | \$5,000,000  | \$5,000,000  |
| 8.0             | Mountain Valley Water   | Salt Lake  | 48     | 400,000gal Tank, Trans/Dist Pipelines     | \$805,980     | \$798,000    |              |
| 8.0             | Woods Cross   | Davis      | 8,942  | Storage Tank, water lines, well           | \$5,000,000   | \$5,000,000  | \$5,000,000  |
| 7.8             | Woods Cross   | Davis      | 5,378  | Equip. Well                               | \$200,000     | \$150,000    |              |
| 5.0             | Skyline Mountain SSD  | Sanpete    |        | 2nd Home Subdivision                      | \$9,000,000   | \$3,000,000  |              |
|                 | Town of Howell  | Box Elder  | 250    | 100,000 Gallon concrete tank              | \$215,000     | \$70,000     |              |
|                 |   |            |        |   | \$63,201,043  | \$39,804,263 | \$21,895,000 |

#### Description of Criteria and Method Used for Distribution of Loan Funds:

The complete description of the criteria and method used for distribution of funds is outlined in Utah Administrative Code (UAC) R309-705-6. As described in R309-705-6, the priority system assigns points to systems showing a deficiency in source, storage, treatment, and/or the distribution system. Points are assigned based on the relative risk of each deficiency, and are divided as applicable between health risk and compliance with SDWA. The applicant's priority points are modified by a financial factor, known as the Rate Factor, and the AGI Factor. Their calculation is shown below:

Priority rating = (Average number of points received) X (Rate Factor) X (AGI Factor)

Where: Rate Factor = (Average System Water Bill / Average State Water Bill)

AGI Factor= (State Median AGI/ System Median AGI)

The priority points for demonstrated deficiencies are multiplied by the Rate Factor and AGI Factor to arrive at a final priority rating. This method addresses financial hardships caused in less affluent communities and in those already experiencing higher water rates.

Upon arriving at a final priority rating for each applicant, each application is rated and added to the priority list. The Board may, at its option, modify a project's priority rating based on the conditions described in R309-705.

The Board sets the effective interest, hardship and/or technical assistance rate. The most current Revenue Bond Buyer Index (RBBI) is used as the base rate. Table 2 in UAC R309-705-6 is used to determine the reduction of the interest rate (or other rate) and potentially may be reduced to zero percent.

**Assistance for Disadvantaged Communities:**

Section 1452 (d) allows the state to provide additional loan subsidies to benefit communities meeting the State's definition of "disadvantaged" provided that for each fiscal year the total amount of loan subsidies may not exceed 30 percent of the amount of the capitalization grant for the year.

The Board defines disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission (USTC) from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the USTC data is insufficient, the Board may accept other measurements of the water users income (i.e. local income survey or questionnaire when there is significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

The amount and type of financial assistance offered by the Board will be based upon the criteria shown in R309-705-6 (2). Disadvantaged communities may receive zero-percent loans, negative interest rate loans, or principal-forgiveness loans. Terms for each method of financial assistance shall be determined by a Board resolution.

The Board has not set any pre-determined amount of DWSRF funds that may be used for principal forgiveness to disadvantaged communities.

**Costs Incurred After Application and Prior to Execution of the Loan Agreement:**

Eligible project costs incurred after application to the Board and prior to execution of the loan agreement are eligible for reimbursement. Reimbursement will only be made after the loan closing.

**Municipal Bond Legal Fees:**

The Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of a recognized municipal bond counsel selected by the Board R309-705-8 (2). The loan recipient is responsible for the legal costs. Legal costs may be paid from the loan proceeds.

**Capacity Development Requirements:**

Eligible Systems: The SDWA allows DWSRF assistance to publicly and privately owned community water systems and nonprofit non-community water systems other than systems owned by Federal agencies. Federal Regulations also set forth certain circumstances under which systems that will become community water systems upon completion of a project

may be eligible for assistance. State Administrative Rule R309-705 “Financial Drinking Water Project Revolving Loan Program. (Effective January 1, 2004) establishes criteria for financial assistance to public drinking water system in accordance with a federal grant 42 U.S.C. 300j et seq., Federal Safe Drinking Water Act. The SDWA requires that loan recipients must demonstrate the technical, financial and managerial capacity (TFM) to comply with the SDWA and not be in significant noncompliance with any requirement of a national primary drinking water standard or variance. The State will assess TFM and compliance in accordance with State Administrative Rules for Public Drinking Water Systems R309-352 Capacity Development Program after loan applications have been received. Those systems lacking in TFM or compliance may still be eligible for a loan if the loan will address the non-compliance or the system agrees to undertake feasible and appropriate changes in operations

### **Environmental Reviews and Categorical Exclusions:**

The State Environmental Review Process (SERP) is described in the Operating Agreement.

The Grantee, the State of Utah, may elect to partition an environmental review or Categorical Exclusion (Cat Ex) from environmental review. The procedures listed below will be followed by the State in order to evaluate if partitioning a project from environmental review is appropriate.

#### **A. Authority:**

The authority for including these procedures in the Division’s Intended Use Plan (IUP) and State Environmental Review Process (SERP) is contained in the SDWA Amendments of 1996 (Pub. L. 104-182) and the guidance provided by the EPA DWSRF Program Guidelines, document # 816-R-97-005 (February 1997). In particular, see Section IV. STATE/PROJECT LEVEL AUTHORITIES, Subsection B. Environmental Reviews.

#### **B. Procedures for Making Determination Cat Ex:**

1. If the Division has reason to believe that the project falls within one of the categories listed under paragraph “C” and thereby may qualify for a Cat Ex from environmental review, the State will make a preliminary survey of the proposed project site(s).
2. During this survey the State will evaluate whether or not the project meets the criteria for a Cat Ex from environmental review.
3. If the State determines the site qualifies for Cat Ex from environmental review, it will document the justification of this determination, including a listing of the dates of activities, which led to this determination, and a statement of relevant findings.
4. Even if the project qualifies for Cat Ex from environmental review according to the criteria listed under paragraph “C”, the State may require an environmental review if the State determines that an environmental review is warranted or appropriate because of conditions found at the site or because the project is controversial.

C. Criteria for Categorical Exclusion From Environmental Review:

In order for a project to qualify for an environmental determination of Cat Ex from environmental review, the general location of the project should have been previously disturbed. Site conditions which will be evaluated in making this determination include a) how urbanized the location is, b) whether wildlife has previously been displaced, and c) whether the wildlife habitual has been previously destroyed or replaced. The project site shall meet at least one of the following criteria:

1. A proposed water line will be placed in a roadway(s) and/or rights-of-ways where existing pipes, telephone wires, cables, or other facilities have previously been installed.
2. A proposed tank site will be located on a site with other previously constructed utility facilities on a previously disturbed site.
3. The proposed facilities will be located at a site with other existing community infrastructure; e.g. a booster station, pump house, water treatment plant, or similar facility within a previously disturbed area and which will not extend into sensitive areas in the ground or adjacent to the previously disturbed area.

D. Public Notice and Participation:

The State will provide public notice when a Cat Ex is issued or rescinded. However, no formal public comment period need be provided prior to the Cat Ex becoming effective.

### **B-3 SET-ASIDES:**

The State Program Management set-aside requires a dollar for dollar match. The other set-asides do not have a match requirement. Up to 10% may be allocated to State Program Management set-aside. At least half of the State Program Management match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. The State is authorized to use the amount of State funds it expended on its PWSS program in fiscal year 1993 as a credit toward meeting its match requirement. The value of this credit can be up to but not greater than 50 percent of the amount of the match that is required. The State will have no difficulty in meeting the required match.

Set-aside funding is used to:

Fund established programs

Fund continuing growth

Fund increasing operating costs

And to the extent set-aside funds are available, assist in funding the additional staff needed to implement new Federal rules regarding regulation of drinking water contaminants

The state will not use set-aside funds for those projects or project-related costs that are eligible or explicitly ineligible for assistance from the Fund except the State may use set-aside funds for, 1) project planning on design costs for small systems, and 2) for costs associated with restructuring a system as part of a capacity development strategy.

Set-aside funds are used on first awarded first used bases. Usage is accounted for by set-aside. Unused funds are carried forward to the next fiscal year. Set-aside funds allocated from the Federal 2008 grant will be used in state fiscal years 2009 and after.

The intended use of set-aside funds:

Maintain the staff (FTEs) hired with set-aside funds including benefits, costs allocated as a percent of personal services, and other related costs.

Continue our contract with the Rural Water Association of Utah to implement portions of the expanded operator certification, wellhead protection and capacity development programs.

Continue our contracts with the twelve local health departments to conduct sanitary surveys.

| Table 5<br>Set-Aside Requests<br>FFY 2008                     |             |            |
|---|-------------|------------|
|   | Amount      | Percentage |
| Capitalization Grant Totals                                   | \$8,146,000 | 100.00%    |
| Set-asides  |             |            |
| Administration  | \$325,840   | 4.00%      |
| State Program Management : (Requires dollar for dollar match) |             |            |
| Program Augmentation  | 651,680     | 8.00%      |
| Capacity Development  | 0           |            |
| Source Water Protection                                       | 101,825     | 1.25%      |
| Operator Certification  | 61,095      | 0.75%      |
| Total State Program Management                                | 814,600     | 10.00%     |
| Small System technical Assistance                             | 162,920     | 2.00%      |
| WellHead Protection   | 20,350      | 3.75%      |
| Capacity Development  | 305,490     | 0.25%      |
| Local Assistance and Other State Programs                     | 325,840     | 4.00%      |
| Set-Aside Total   | \$1,629,200 | 20.00%     |

#### Set-aside requests and intended use:

Administration set-aside:

We are requesting the \$325,840 the maximum (4% X \$8,146,000), we estimate a carry-forward to SFY 2008 of \$1,509,668. The administration set-aside will fund four to five full-time equivalents (FTEs) position to operate the program SFY 2008. The budgeted estimate to fund salary, benefits, office space, equipment, travel, training, supplies, and the indirect allocation for SFY 2008 is \$345,500. The administration set-aside does not require a state dollar for dollar match.



#### State Programs set-aside:

We are requesting \$814,600 the maximum (10% x \$8,146,000) divided to the sub-categories as listed on Table 5 (above). The sub-categories include PWS Supervision, Capacity Development, Operator Certification, and Source Protection. Budgeting, disbursements, and draws are accounted for by sub-categories.

The State Program set-aside requires a dollar for dollar state match. The dollar for dollar match requirement is separate and in addition to the 20 percent match added to the loan program. We are able to meet the required dollar for dollar match using the current year state general fund allotment and, if need, the credit allowed by section 1452 (g) (2) for fiscal year 1993 PWSS expenses.

#### PWS Supervision (augmentation) set-aside:

We are requesting \$651,680 from the 2008 grant; we estimate a carry-forward to SFY 2008 of \$2,148,048. Expenditures for SFY 2008 are estimated at \$753,500 not including the dollar for dollar match this set-asides requires.

The PWS Supervision set-aside provides the necessary resources for the Division of Drinking Water to continue performing basic core functions such as sanitary surveys, plan reviews, compliance monitoring, groundwater source protection, and many other facets of public health protection. Growth impacts in the state combined with the adoption of the 1986 SDWA amendments and other State and Federal regulations create a tremendous workload. The PWS Supervision set-aside funds are used to help support the additional staff. Approximately sixteen (16) FTE are supported by the PWS Supervision set-aside. In addition to the staff funding the PWS Supervision set-aside funds:

1. We continue to contract with the Rural Water Association of Utah to provide two FTEs to do data input, and secretary type work to free-up scientist and engineers from filing, data input, and other non-professional duties. Funds from the PWS Supervision set-aside are used to fund a portion of the contract employees cost.
2. The State of Utah contracts with the twelve local health departments (LHD) to conduct sanitary surveys. \$72,100 is funded from the PWS Supervision set-aside and the balance is from state general funds.
3. The cost of a Data Processing programmer is funded by the PWS Supervision set-aside to assist with continued development and implementation of SDWIS.

#### Capacity Development Program:

We are requesting \$0 additional funds from the 2008 grant. The estimate carry-forward is \$67,924. The amount budgeted was \$18,600. This set-aside requires a dollar for dollar match. It is anticipated carry-forward funds is sufficient to cover capacity development program costs. If the 2001 set-aside doesn't deplete by the end of FY2008, it is anticipated a transfer of \$25,000 to the PWS Supervision set-aside may be needed to close out the 2001 capitalization grant.

The State of Utah has statutory authority for a capacity development program (Section 19-4-104 of the Utah SDWA). Time of one FTE, as needed, will oversee and maintain the program. The Division is current with all reports due to the Governor and USEPA.

#### Operator Certification Program:

The State has an Operator Certification program that has been mandatory since 1985. Prior to 1997 the program required community water systems serving more than 800 population and any public water systems treating surface water to have a certified operator. The statutory authority to reduce the threshold population from 800 to 25 was enacted by the 1997 Legislature. The new Safe Drinking Water Act requires all community and non-transient, non-community water systems and all public water systems that treat surface water to have a certified operator. As a result of lowering the mandatory threshold from 800 to 25, the number of water systems requiring certification has tripled. The most significant changes to the rules regarding have been:

- 1) certified operators for systems serving a population less than 800
- 2) operator's grade level
- 3) grandparent certification

These new guidelines were implemented by the State of Utah on February 1, 2001. Water systems had until February 1, 2003 to comply with the new rule.

USEPA published final Guidance (EPA-816-R-98-006) in July 1998 establishing national policy regarding the implementation of the operator certification related provisions of the SDWA including how EPA would assess State operator certification program for purposes of making withholding decisions.

USEPA has approved the State's operator certification program. The "Operator Certification Training Grant" was completely spent by the end of calendar year 2006.

Funding for the Operator Certification program comes from two sources:

- 1) Fees
- 2) DWSRF Operator Certification set-aside

We are requesting \$61,095 from the 2008 grant with an estimate carry forward of \$303,084. Expenditures for FY 2008 were budgeted at \$90,000. The time of one FTE is dedicated to coordinating and administering this program. The division contracts with the Rural Water Association annually to assist with operator certification training. The contract also funds staff training time and training supplies.

This set-aside requires a dollar for dollar match.

#### Source Protection Administration:

The SDWA Amendments of 1996 require states to develop and carry out a source water quality assessment program for all public water systems. The time of one FTE is dedicated to developing, implementing, and coordinating this program.

We are requesting \$101,825 from the 2008 grant with an estimate carry forward of \$88,721. Expenditures for FY 2008 were budgeted at \$80,700. This set-aside requires a dollar for

dollar match.

**Small Systems Technical Assistance:**

We are requesting \$162,920 the maximum allowed (2% x \$8,146,000) with a carry forward of approximately \$363,587. Expenses for 2008 are estimated at \$279,500. The Act allows up to a total of 2% of the allotment to provide technical assistance to public water systems serving 10,000 people or fewer (section 1452(g) (2)).

The State uses the RWAU to assist the Division of Drinking Water (DDW) to accomplish the following:

Respond to DDW's inquiries regarding action taken and progress achieved with water systems which DDW's asked RWAU to assist.

Assist Water systems with financial, managerial and technical issues. Including but not limited to:

- a. Water rates & fees analysis
- b. Applying for and obtaining funding for projects
- c. Locating and securing engineering
- d. Ordinance, resolution and by-laws development

Assist systems in preparing management, conservation, financial, capital improvement, sampling and cross connection control plans. Train five water system boards and or councils in subjects related to capacity development.

Perform Financial/Management audits with water systems as requested by the system or DDW.

Publish a quarterly newsletter with articles focusing on timely news and information pertaining the capacity development.

Provide one-on-one assistance in the field with water system personnel serving less than 3,300 population, who need computer training and help in trouble shooting computer problems. Assist with understanding of consumer confidence reporting and how to develop the report. Assist water system personnel in learning and perfecting the use of various pieces of software and databases to improve water system operations.

Encourage and provide assistance to SNC (significant non-complier) type public water systems in applying for financial assistance from the Board in situation where this assistance will be helpful to the water system in returning to compliance with drinking water rules. As resources are available and as requested by the Drinking Water Board, assist water systems that have borrowed funds from the Drinking Water Board.

Continue to develop, maintain and promote the web site devoted to the Utah Water/Wastewater Assistance Response Network (UT-WARN) including data entry of systems submitting data to join the network.

Work with systems on the EPA/NRWA sanctioned “Peer Review Security Program” as requested.

The Small Systems Technical Assistance set-aside does not require a state dollar for dollar match.

#### Local Assistance and Other State Programs:

We are requesting \$325,840 which is less than the maximum of \$1,221,900 (15% x \$8,146,000) with a carry forward of approximately \$732,594. It is divided into two sub-categories, capacity development and wellhead protection. Budgeting, disbursements, and draws are accounted for by sub-categories. This will fund three FTEs for implementation of local drinking water protection initiatives (section 1452(k)) and technical assistance for capacity development and wellhead protection. In addition, the contract with the Rural Water Association contains aspects of outreach, training and expanding system capabilities appropriate to charge against this set-aside and may include the following:

Arrange for and meet with five different county commissions at their regularly scheduled meetings to provide information to commissioners regarding Source Protection, Capacity Development and other Safe Drinking Water Act issues as appropriate.

Provide one-on-one assistance in the field with water system personnel serving communities with a population less than 3,300, who need computer training and help in trouble shooting computer problems. Assist with understanding of consumer confidence reporting and how to develop the report. Assist water system personnel in learning and perfecting use of various pieces of software and database to improve water system operations.

Meeting with county commissions and encouraging them to adopt source protection ordinances for wellhead protection.

The Local Assistance and Other State Programs set-aside does not require a state dollar for dollar match.

#### C - ATTACHMENTS

Project Priority List (full list)  
Attorney General Enabling Legislation Opinion Letter  
Organization Chart

#### D - UTAH ADMINISTRATIVE CODE RULE R309-705

Rule for Projects Receiving Assistance from the Federal DWSRF  
Loan Program is available at [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)